



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (FIFTH SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, SEPTEMBER 08, 2021 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Deputy Speaker.

3. **PETITIONS**

- (a) Pursuant to Standing Order 230(2)(a), the Deputy Speaker presented to the Senate a Petition by Ms. Linda Munyao and other members of the Environment Institute of Kenya (EIK) concerning the introduction in the Senate of the proposed Environment Institute of Kenya Bill.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Land, Environment and Natural Resources pursuant to Standing Order 232(1).

- (b) Pursuant to Standing Order 230(2)(a), the Deputy Speaker presented to the Senate a Petition by Mr. Taratisio Ileri Kawe concerning the state of the *Inua Jamii* Programme.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 232(1).

- (c) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Finance and Budget, tabled before the Senate a Report of the Committee on a Petition to the Senate by Kenyan youths concerning reforms on the design and structure of the procurement framework in Kenya.

**4. PAPERS LAID**

The following Papers were laid on the Table of the Senate: -

- i) The Kenya Evaluation Guidelines for the National Integrated Monitoring and Evaluation System.
- ii) Report of the Auditor-General on the financial statements of Lodwar Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.
- iii) Report of the Auditor-General on the financial statements of Kakamega County Water and Sewerage Services Company Limited for the year ended 30<sup>th</sup> June, 2019.
- iv) Report of the Auditor-General on the financial statements of Ngagaka Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.
- v) Report of the Auditor-General on the financial statements of County Assembly of Isiolo Car Loan Scheme Fund for the year ended 30<sup>th</sup> June, 2019.
- vi) Report of the Auditor-General on the financial statements of Imetha Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.
- vii) Report of the Auditor-General on the financial statements of Kwale County Trade Revolving Fund for the year ended 30<sup>th</sup> June, 2019.
- viii) Report of the Auditor-General on the financial statements of Elgeyo Marakwet County Executive Car and Mortgage Revolving Fund for the year ended 30<sup>th</sup> June, 2019.
- ix) Report of the Auditor-General on the financial statements of Gatundu Water and Sanitation Company Limited for the year ended 30<sup>th</sup> June, 2019.
- x) Report of the Auditor-General on the financial statements of Kirinyaga County Health Sector Service Fund for the year ended 30<sup>th</sup> June, 2019.

*(Sen. Charles Kibiru, MP on behalf of the Senate Majority Leader)*

- xi) Report of the Standing Committee on Finance and Budget on a Petition to the Senate by Kenyan youths concerning reforms on the design and structure of the procurement framework in Kenya.

*(Chairperson, Standing Committee on Finance and Budget.)*

- xii) Report of the Sessional Committee on Delegated Legislation, on the consideration of Public Finance Management (Sinking Fund) Guidelines, 2021.

*(The Vice - Chairperson, Standing Committee on Delegated Legislation.)*

5. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION, ON THE PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES, 2021**

(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021 laid on the Table of the Senate on Wednesday, 8<sup>th</sup> September, 2021, and that pursuant to Section 18 of the Statutory Instruments Act, Section 205 of the Public Finance Management Act, and Standing Order 221(4)(b), annuls in its entirety, the Public Finance Management (Sinking Fund) Guidelines, 2021.

6. **STATEMENTS PURSUANT TO STANDING ORDER 48 (1)**

- i) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Tourism, Trade and Industrialization regarding the financial status of Harambee SACCO Limited.
- ii) Nominated Senator (Sen. (Arch.) Sylvia Kasanga, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding cases of police brutality, extra-judicial killings and “mob justice” in the country.

7. **THE SPECIAL NEEDS EDUCATION BILL (SENATE BILLS NO. 44 OF 2021)**

(Sen. (Prof.) Margaret Kamar, MP and Sen. (Dr.) Gertrude Musuruve, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Education.

8. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022 AND APPROVAL OF THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022 laid on the Table of the Senate on Tuesday, 7<sup>th</sup> September, 2021 and that, pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022.

*(Chairperson, Standing Committee on Finance and Budget – 07.09.2021)*

Debate interrupted on Tuesday, 7<sup>th</sup> September, 2021 resumed;

And there being no other Senators wishing to contribute;

Mover replied;

Raising a point of order, the Mover requested for the deferment of the putting of the Question to a later date, pursuant to Standing Order 61 (3).

And the Temporary Speaker (Sen. Judith Pareno, MP) acceding to the request, nominated Thursday 9<sup>th</sup> September, 2021 as the day when the Question shall be put.

9. **THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO. 35 OF 2021)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the County Governments Grants Bill (Senate Bills No. 35 of 2021) be now read a Second Time.

*(Chairperson, Standing Committee on Finance and Budget)*

Debate arising;

And there being no other Senators wishing to contribute;

Mover replied;

Raising a point of order, the Mover requested for the deferment of the putting of the Question to a later date, pursuant to Standing Order 61 (3).

And the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) acceding to the request, nominated Thursday 9<sup>th</sup> September, 2021 as the day when the Question shall be put.

10. **THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILLS NO. 6 OF 2021)**

(The Senate Majority Leader)

*(Second Reading)*

Order read;

Order deferred.

11. **THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 9 OF 2021)**  
(Sen. Kipchumba Murkomen, MP)

*(Second Reading)*

Order read;

Order deferred.

12. **THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF 2021)**  
(Sen. Mutula Kilonzo Jr, MP and Sen. Sakaja Johnson, MP)

*(Second Reading)*

Order read;

Order deferred.

13. **THE KENYAN SIGN LANGUAGE BILL (SENATE BILLS NO. 5 OF 2021)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Kenyan Sign Language Bill (Senate Bills No. 5 of 2021) be now read a Second Time.

*(Sen. (Dr.) Getrude Musuruve, MP)*

Debate arising;

And there being no other Senators wishing to contribute;

Mover replied;

Raising a point of order, the Mover requested for the deferment of the putting of the Question to a later date, pursuant to Standing Order 61 (3).

And the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) acceding to the request, nominated Thursday, 9<sup>th</sup> September, 2021 as the day when the Question shall be put.

14. **THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)**  
(Sen. (Dr.) Abdullahi Ali, MP)

*(Second Reading)*

Order read;

Order deferred.

15. **COMMITTEE OF THE WHOLE**  
**THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)**  
(Sen. (Arch.) Sylvia Kasanga, MP)
- Order deferred.
16. **COMMITTEE OF THE WHOLE**  
**THE BASIC EDUCATION BILL (SENATE BILLS NO. 4 OF 2021)**  
(Sen. Beatrice Kwamboka, MP)
- Order deferred.
17. **COMMITTEE OF THE WHOLE**  
**THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILLS NO. 32 OF 2020)**  
(Sen. Mercy Chebeni, MP)
- Order deferred.
18. **COMMITTEE OF THE WHOLE**  
**THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)**  
(The Chairperson, Standing Committee on Finance and Budget)
- Order deferred.
19. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS, CONCERNING THE IMPASSE ON THE BUDGETARY ESTIMATES FOR FINANCIAL YEAR 2020/2021 FOR KIRINYAGA COUNTY BETWEEN THE COUNTY EXECUTIVE AND THE COUNTY ASSEMBLY**  
(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)
- THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the impasse on the budgetary estimates for financial year 2020/2021 for Kirinyaga County, between the County Executive and the County Assembly, laid on the Table of the Senate on Tuesday, 25<sup>th</sup> May, 2021.
- Order deferred.
20. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS**  
(The Chairperson, Standing Committee on Roads and Transportation)

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of the National Construction Authority (Defects Liability) Regulations, laid on the Table of the Senate on Thursday, 24<sup>th</sup> September, 2020.

Order deferred.

21. **MOTION – FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES**

(Sen. (Arch.) Sylvia Kasanga, MP)

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation;

NOTING that, while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of cultural integration, formulation of policies and standards that will guide the development of culture, little information has been available to the Kenyan public;

ACKNOWLEDGING, that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life's activities;

CONCERNED, that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW, THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to –

a) Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya's heritage, recognize local heroes and promote socio-cultural opportunities in the counties; and

b) Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties.

Order deferred.

22. **MOTION – PROVISION OF COLOSTOMY BAGS TO COLON CANCER PATIENTS AND SURVIVORS IN COUNTY HOSPITALS**

Order read;

Motion made;

THAT, AWARE THAT the colon is part of the digestive system with a major role in the absorption of water, minerals and elimination of waste;

FURTHER AWARE THAT colon cancer can cause serious blockage of the colon that may necessitate removal of parts of the colon, the entire colon or the entire colon and the rectum;

COGNIZANT THAT persons who have gone through ileostomy, colostomy and urostomy need to use a bag to empty their wastes for the rest of their lives post-surgery;

CONCERNED THAT urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags are not listed as goods exempt from tax or zero rated in the First and Second Schedules of the VAT Act 2013, and therefore attract 16 per cent value added tax and customs duty;

ACKNOWLEDGING THAT Article 43(1a) of Constitution of Kenya states that everyone has a right to the highest attainable standards of health, and health is a devolved function and therefore under the mandate of the county governments;

NOW THEREFORE, the Senate calls upon the Ministry of Health and) in partnership with the Council of Governors to:

1. create and maintain a register of all the colon cancer patients and survivors in county hospitals, including the biodata of the histology of the patients;
2. provision of colostomy bags for those who are permanent users;
3. include the purchase of palliative care products in the health budgets of all county governments;
4. ensure all county hospitals stock these palliative care products to enable increased access and lower commercial prices; and
5. engage the Treasury and Kenya Revenue Authority (KRA) to waive taxes on long-term health consumables such as colostomy bags, prosthesis and others in the upcoming budgetary cycle to ease the burden on Kenyans.

*(Sen. (Dr.) Gertrude Musuruve, MP)*



And the time being thirty minutes past six O'clock, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

23. **SENATE ROSE** – at Thirty Minutes past Six O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Thursday, September 09, 2021 at 2.30 p.m.*

--X--